

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BIG RED, INC., et al.,	§
	§
Plaintiffs,	§
	§ Civil Action No. 3:15-CV-1423-D
VS.	§
	§
CATAWISSA BOTTLING COMPANY, INC.,	§
	§
Defendant.	§

**ORDER**

On May 6, 2015 plaintiffs filed a motion for a preliminary injunction. Pursuant to Fed. R. Civ. P. 43(c), the court will decide the motion on the basis of affidavits, declarations, deposition excerpts, and/or exhibits. *See, e.g., FSLIC v. Dixon*, 835 F.2d 554, 558-59 (5th Cir. 1987); *E. E. Maxwell Co. v. Arti Decor, Ltd.*, 638 F. Supp. 749, 751 n.3 (N.D. Tex. 1986). The court will convene an evidentiary hearing only if necessary to resolve a controlling fact issue that involves a determination of witness credibility. This order governs the timing and content of the required submissions.

I

Plaintiffs must file their supporting materials and a separate brief. Until these documents are filed, the court will not calendar the motion internally for decision, and no opposing party need respond.

The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 50 pages. Supporting materials must be set out in an appendix, in the form prescribed by § IV of this order. The brief must include citations to each page of the appendix that supports each assertion made concerning the evidence.

The appendix and brief must be served on all parties entitled to such service no later than the calendar day (including Saturdays and legal holidays) that follows the date they are filed with the clerk of court.

## II

Defendant must file its opposition materials, and a separate brief, within 21 days of the date the documents required in § I are filed with the clerk of court.

The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 50 pages. Opposition materials must be set forth in an appendix, in the form prescribed by § IV of this order. The brief must include citations to each page of the appendix that supports each assertion made concerning the evidence.

The appendix and brief must be served on all parties entitled to such service no later than the calendar day (including Saturdays and legal holidays) that follows the date they are filed with the clerk of court.

## III

Plaintiffs may file a reply brief, but not additional evidence, within 14 days of the date the documents required by § II of this order are filed with the clerk of court. The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 25 pages.

## IV

Evidentiary materials must be set out in an appendix that meets the following requirements:

(A) The appendix must be assembled as a self-contained document, separate from the brief. (B) Each page of the appendix must measure 8½ x 11 inches. Non-documentary exhibits (*e.g.*, videotapes and other physical exhibits) and oversized exhibits (*e.g.*, maps and schematic drawings)

that are included in the appendix must be placed in an envelope that measures 9 x 12 inches. (C) Each page of the appendix must be numbered legibly in the lower, right-hand corner. The first page must be numbered as "1," and succeeding pages must be numbered sequentially through the last page of the entire appendix (*i.e.*, the numbering system must not re-start with each succeeding document in the appendix). An envelope that contains a non-documentary or oversized exhibit must be numbered as if it were a single page.

V

Plaintiffs are responsible for promptly serving a copy of this order on defendant.

**SO ORDERED.**

May 7, 2015.

  
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SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE